

**ENTERED**

October 17, 2019

David J. Bradley, Clerk

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

CORETTA HARRIS,

*Plaintiff,*

v.

G & P TRUCKING COMPANY, INC., *et al.*,

*Defendants.*

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CIVIL ACTION H-18-1957

**ORDER**


Pending before the court is defendants G & P Trucking Company, Inc. and Jimmy C. Killian's motion for partial summary judgment (Dkt. 18) on the gross negligence claims asserted against them by plaintiff Coretta Harris (Dkt. 1). Harris has not responded. Having reviewed the motion, the evidentiary record, and the applicable law, the court GRANTS defendants' motion for partial summary judgment.

According to the local rules, a failure to timely respond to a pending motion "will be taken as a representation of no opposition." S.D. Tex. L.R. 7.4. Nevertheless, a "motion for summary judgment cannot be granted simply because there is no opposition, even if failure to oppose violated a local rule." *Hetzel v. Bethlehem Steel Corp.*, 50 F.3d 360, 362 n.3 (5th Cir. 1995) (citing *Hibernia Nat'l Bank v. Admin. Cent. Sociedad Anonima*, 776 F.2d 1277, 1279 (5th Cir. 1985)). "The movant has the burden of establishing the absence of a genuine issue of material fact and, unless he has done so, the court may not grant the motion, regardless of whether any response was filed." *See Hetzel*, 50 F.3d at 362 n.3. However, a district court may accept as undisputed the facts set forth in the motion. *See Eversley v. MBank Dallas*, 843 F.2d 172, 174 (5th Cir. 1988) (internal citations omitted).

The court has examined the record and applicable law and is satisfied that, for the reasons set forth in defendants' motion for partial summary judgment, no genuine issue of material fact exists. *See Celotex Corp. v. Catrett*, 477 U.S. 317, 322, 106 S.Ct. 2548, 91 L. Ed. 2d 265 (1986); *Little v. Liquid Air Corp.*, 37 F.3d 1069, 1075 (5th Cir. 1994) (*en banc*).

Accordingly, defendants' motion partial for summary judgment (Dkt. 18) is GRANTED.

Signed at Houston, Texas on October 17, 2019.



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Gray H. Miller  
Senior United States District Judge